

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

NICHOLAS CLEM, ERIC DOBSON,
HEATHER GRAHAM, CAITLIN CASTERLIN,
SHELBY KAMM, DEREK RUNNELLS,
KATHY BATZ, SANA HANNA, and CANDICE
EASLEY, individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

KEYBANK, N.A.,

Defendant.

No. 13 Civ. 789 (JCF)

**NOTICE OF MOTION FOR PRELIMINARY APPROVAL OF CLASS
SETTLEMENT, PROVISIONAL CERTIFICATION OF THE SETTLEMENT
CLASS, APPOINTMENT OF PLAINTIFFS' COUNSEL AS CLASS COUNSEL,
AND APPROVAL OF PLAINTIFFS' PROPOSED NOTICES OF SETTLEMENT**

For the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of the Settlement, Conditional Certification of the Settlement Class, Appointment of Plaintiffs' Counsel as Class Counsel, and Approval of the Proposed Notices of Settlement and Class Action Settlement Procedure ("Motion for Preliminary Approval") and in the Declaration of Justin M. Swartz in Support of Plaintiffs' Motion for Preliminary Approval ("Swartz Declaration"), Plaintiffs respectfully request that the Court enter an Order:

(1) granting preliminary approval of the Joint Settlement and Release ("Settlement Agreement"), attached as Exhibit B to the Swartz Declaration;

(2) conditionally certifying the following settlement subclasses under Fed. R. Civ. P. 23(a) and (b)(3) for purposes of effectuating the settlement:

- a. New York Sub-Class: The “New York Sub-Class” consists of all individuals who were employed as CSMs and/or Operations Supervisors in the State of New York from February 4, 2007 to April 20, 2013;
- b. Ohio Sub-Class: The “Ohio Sub-Class” consists of all individuals who were employed as CSMs in the State of Ohio from February 4, 2010 to April 20, 2013;
- c. Colorado Sub-Class: The “Colorado Sub-Class” consists of all individuals who were employed as CSMs in the State of Colorado from February 4, 2010 to April 20, 2013;
- d. Washington Sub-Class: The “Washington Sub-Class” consists of all individuals who were employed as CSMs in the State of Washington from February 4, 2010 to April 20, 2013;
- e. Oregon Sub-Class: The “Oregon Sub-Class” consists of all individuals who were employed as CSMs in the State of Oregon from February 4, 2010 to April 20, 2013;
- f. Indiana Sub-Class: The “Indiana Sub-Class” consists of all individuals who were employed as CSMs in the State of Indiana from February 4, 2010 to April 20, 2013; and
- g. Maine Sub-Class: The “Maine Sub-Class” consists of all individuals who were employed as CSMs in the State of Maine from February 4, 2010 to April 20, 2013;

(3) appointing Outten & Golden LLP and the Shavitz Law Group, P.A. as Class Counsel;

(4) approving the Proposed Notice of Proposed Settlement of Class Action Lawsuit and Fairness Hearing, attached as Exhibit C to the Swartz Declaration; and the Proposed Notice of Proposed Settlement of Collective Action Lawsuit and Fairness Hearing, attached as Exhibit D to the Swartz Declaration; and directing their distribution;

(5) approving the Parties' proposed schedule for final settlement approval;
and

(6) granting such other, further, or different relief as the Court deems just and proper.

* * *

Plaintiffs have contemporaneously submitted a Proposed Order, attached hereto as **Exhibit A**, for the Court's convenience.

Dated: March 14, 2014
New York, New York

Respectfully submitted,
OUTTEN & GOLDEN LLP
By:

/s/ Justin M. Swartz
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**Attorneys for Plaintiffs and the Putative
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